

## PPM 208: License Agreements for Real Property

<b>Responsible Officers:</b>	PCPA Director
<b>Responsible Office:</b>	<a href="#">Office of the Controller and Business Services</a> <a href="#">Policies, Compliance, and Programmatic Agreements (PCPA)</a>
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<b>Contact:</b>	<a href="#">Linda Harris</a> - FUA
<b>Title:</b>	Risk Services Analyst
<b>Email:</b>	<a href="mailto:olharris@ucanr.edu">olharris@ucanr.edu</a>
<b>Phone:</b>	(530) 750-1263
<b>Contact:</b>	<a href="#">Ryan Harms</a> - Licenses
<b>Title:</b>	PCPA Principal Analyst
<b>Email:</b>	<a href="mailto:Ryan.harms@ucop.edu">Ryan.harms@ucop.edu</a>
<b>Phone:</b>	(510) 987-0696

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## I. POLICY SUMMARY

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This section of the Policy and Procedure Manual (PPM) pertains to License Agreements including Facility Use Agreements (FUAs). Specifically, it covers situations in which the University of California (UC), Agriculture and Natural Resources (ANR) will make use of real property of an outside (i.e., non-UC) entity.

From time to time UC ANR may wish to allow an outside entity to make use of UC-owned property. When this is sought contact the Administrative Policies and Business Contracts (PCPA) office (see contact information above) for assistance.

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## II. DEFINITIONS

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**UC ANR:** University of California Agriculture and Natural Resources will be referred to as UC ANR throughout the Manual.

**Vice President:** The Vice President—UC Agriculture and Natural Resources will be referred to as Vice President throughout the Manual. If there is need to refer to another Vice President of the University, the full title of that position will be used.

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## III. POLICY TEXT

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Regents policy specifies that UC will not enter into agreements wherein UC assumes liability for persons other than UC officers, agents, employees, students, invitees, and guests, without specific authorization by resolution of The Regents pursuant to Standing Order 100.4(dd)(9).

A license gives the permission of the owner to an individual or an entity to use real property for a specific purpose. It does not transfer an interest in the real property. It is personal to the licensee and any attempt to transfer the license terminates it. License are sometimes included in other agreements, e.g. a memorandum of understanding. The separate license should be attached as an exhibit to the more general agreement. (See License templates in the *Related Information* Section)

FUAs are intended for licensing classroom, studio, theater, and other periodic use space for educational, research, and public service purposes where the total term will not exceed one to three years and the user is not making any improvements to the premises. FUAs should be tailored to fit the unique facts of individual arrangements. (See FUA templates in the *Related Information* Section)

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## IV. COMPLIANCE / RESPONSIBILITIES

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**A.** The Vice President has been granted the authority to execute real property agreements under DA 2629, consistent with Regents policy, covering the use of buildings and facilities for UC ANR (Capital Project Matters). These include activities that are a part of the Agricultural Extension Service program, and agreements covering the use of buildings or facilities by 4-H. All Licenses, including FUAs,

should show "The Regents of the University of California" as the legally governing entity.

- B.** Every effort should be made to bring Licenses and FUAs into conformity with Regents policy. In some cases exceptions will be made based upon a case-by-case evaluation of the relative risks and benefits.
- C.** License agreements, not including FUAs, need to be reviewed by the PCPA office (see contact information above, and procedure in section V below) under the UC ANR Controller and Business Services Director (Controller). PCPA will evaluate and negotiate efforts to use UC's preferred language for hold harmless clauses and generally assess the insurance requirements. PCPA will also determine if use of the UCOP License Checklist is necessary. If there are any non-conforming clauses or negotiations are unsuccessful, PCPA will defer to the guidance of the Director of Risk and Safety Services. If positive determination is made, the license agreement will be executed by the Controller and distributed with any necessary insurance certificates.
- D.** UC Cooperative Extension (UCCE) County Directors have been delegated authority to execute the following:
  - 1. FUAs that do not contain a hold harmless clause or that contain a hold harmless clause using UC's preferred language (see section V below), or an alternative clause previously approved by UC. These FUAs should be carefully reviewed by the UCCE County Director to determine that there are no other provisions that would be detrimental to UC interests. It is also important to remember that hold harmless or other indemnification clauses may be hidden in other clauses and may not be specifically identified as "indemnification."
  - 2. State of California, Division of Fairs and Expositions, Agreement No. F31 covering use of fairground facilities.
- E.** If a FUA is received that contains a hold harmless clause not in conformity with the above, the UCCE County Director should attempt to negotiate the hold harmless clause preferred by UC. If negotiations are unsuccessful, FUAs should be submitted to the Risk Services Analyst (see contact information above) under the UC ANR Controller, for review and further efforts to negotiate an acceptable clause. If this fails, the FUA will be evaluated to determine whether the benefits of using the facility outweigh the risks associated with the FUA. To make a proper determination, it will be necessary to consider the condition of the facility, the nature of the activity to be conducted, the number of persons to use the facility, alternative options available, and other pertinent factors. If a positive determination is made, the FUA will be executed by the Controller and returned to the County along with any necessary insurance certificate.

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## **V. PROCEDURES**

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### **A. Hold Harmless Clause**

Set forth below is the hold harmless clause language preferred by UC, which recognizes the interests of the property owner while at the same time not placing

unacceptable liability on UC. Questions concerning any hold harmless clause should be referred to the UC ANR Risk Services Director.

The standard clause is as follows:

"The Regents of the University of California shall defend, indemnify, and hold \_\_\_\_\_ its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fee, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its officers, employees, or agents.

\_\_\_\_\_ shall defend, indemnify, and hold The Regents of the University of California, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fee, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its officers, employees, or agents."

## **B. Insurance Certificates**

Many FUAs require the furnishing of an insurance certificate evidencing appropriate insurance coverage by UC. See PPM Section 210 to determine appropriate coverage requirements. See UC ANR Office of Risk Services for details on obtaining a certificate of Insurance.

## **C. License Agreements**

The process for executing license agreements is as follows:

1. Send request to PCPA via email, [newagreement@ucanr.edu](mailto:newagreement@ucanr.edu)
2. PCPA will review per section IV.C above
  - a. Review hold harmless and insurance requirements
  - b. Evaluate whether a License Checklist is necessary
  - c. Provide next steps for negotiation
3. PCPA will arrange for electronic execution via DocuSign software
  - a. If necessary, PCPA can also arrange for "wet" signature

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## **VI. RELATED INFORMATION**

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- [UC ANR Office of Risk Services](#)
- [UC ANR Controller and Business Services Director](#)
- [UC ANR Policies, Compliance, and Programmatic Agreements Office](#)
- [UCOP License Checklist](#)

- [UC Facilities Manual Volume 2, Chapter 7.8](#)
- [The Regents Standing Order 100.4\(dd\)\(9\)](#)
- [UC ANR FUA Templates](#)
- License Template - [UC as Licensor](#)
- License Template - [UC as Licensee](#)
- [Delegation of Authority 2629 \(DA 2629\)](#)
- [UC ANR re-delegation of DA 2629](#)
- [Policy and Procedure Manual Section 210](#)
- [State of California, Division of Fairs and Expositions, Agreement No. F31](#)

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## VII. FREQUENTLY ASKED QUESTIONS

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### **Does this policy apply to all License Agreements?**

Yes, the above applies to both FUAs and all other licenses. As described in Item I. above, all FUAs should be forwarded to the office of Risk Services and all other agreements should be forwarded to the office of Policies, Compliance, and Programmatic Agreements for review and processing.

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## VIII. REVISION HISTORY

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### **August 2017:**

Format updated.

### **August 2019:**

General content updates (e.g. Names titles, department names, etc), content update to include all license agreements for real property.

### **August 2020:**

Format and personnel updated.

### **August 2022:**

Format and personnel updated. Procedure section updated to include PCPA process for executing license agreements for real property